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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,692	05/30/2006	David Goujon	Q92285	3783
23373 7590 12/02/2008 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER TYLER, STEPHANIE E				
ART UNIT		PAPER NUMBER		
3754				
MAIL DATE		DELIVERY MODE		
12/02/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/562,692

**Applicant(s)**

GOUJON ET AL.

**Examiner**

STEPHANIE E. TYLER

**Art Unit**

3754

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9 and 11-13 is/are rejected.
- 7) ☒ Claim(s) 3 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 12/27/2005

## **DETAILED ACTION**

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "the," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

In particular claim language "the" should be avoided in the abstract. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,2,4-9,11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Burt (6,318,603).

The Burt reference discloses a valve having a valve body (1) that includes a metering chamber (4), a first valve element (7,8) intended to dispense the product contained in the metering chamber (4), and a second valve element (structure against 6; see fig.1) intended to fill the metering chamber (4), and characterized in that the first and second valve elements (7,8; structure against 6; see fig.1) are actuated separately during the use of the valve; and wherein the first and second valve elements (7,8; structure against 6; see fig.1) are actuated together to fill the reservoir with the fluid product; and wherein each valve element (7,8; structure against 6; see fig.1) fits onto an elastic element (6) respectively, such as a spring, which forces it toward its rest position; and wherein the actuating means of the first valve element (7,8) are different from the actuating means of the second valve element (structure against 6; see fig.1); and wherein the second valve element (structure against 6; see fig.1) forms, together with the valve body (1), an intake valve (5) for the metering chamber (4), the second valve element (structure against 6; see fig.1) being movable with respect to the valve body (1) between a closed position and an open position of the

intake valve (5); and wherein the intake valve (5) is formed by a lateral passage (see fig.1) provided in a wall (see fig.1) of the second valve element (structure against 6; see fig.1), the passage (see fig.1) being closed in the closed position of the intake valve (5) and open in the open position of the intake valve (5); and wherein the first valve element (7,8) forms, together with the second valve element (structure against 6; see fig.1), an outlet valve (10) for the metering chamber (4), the first valve element (7,8) being movable with respect to the second valve element (structure against 6; see fig.1) between a closed position and an open position of the outlet valve (area inside 4 when 7,8 is press downward in the upright position); and wherein the outlet valve (area inside 4 when 7,8 is press downward in the upright position) is formed by a lateral passage (11) provided in the first valve element (7,8), the passage (11) being closed in the closed position of the discharge valve (area inside 4 when 7,8 is press downward in the upright position) and opening into the metering chamber (4) in the open position of the discharge valve (area inside 4 when 7,8 is press downward in the upright position); and wherein the rest position of the valve, the metering chamber (4) is closed hermetically with respect to the reservoir and the exterior; and wherein a device (1) having a reservoir containing a fluid product and a propellant (col.3, lines 47,48); and wherein the reservoir is filled by means of a filling machine which simultaneously actuates the first and second valve elements (7,8; structure against 6; see fig.1).

***Allowable Subject Matter***

6. Claims 3 and 10 are objected to as being dependent upon a rejected base claim, but would appear to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Di Giovanni (6,343,722; 5,169,038), Di Giovanni et al. (6,112,950; 6,315,173; 6,510,969), Brugger et al. (6,596,260), Goujon et al. (7,278,556) are other various types of valve apparatuses.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEPHANIE E. TYLER whose telephone number is (571)272-8059. The examiner can normally be reached on 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. E. T./  
Examiner, Art Unit 3754

/Frederick C. Nicolas/  
Primary Examiner, Art Unit 3754